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(Exempt from filing fees pursuant  
to Government Code section 6103)

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DAVIS JOINT UNIFIED SCHOOL DISTRICT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

C.S.T., a minor, by and through J.T., his  
Guardian Ad Litem,

Plaintiff,

v.

DAVIS JOINT UNIFIED SCHOOL DISTRICT,

Defendant.

No. 2:04-cv-2748-MCE-GGH

**STIPULATION TO CONTINUE TRIAL  
DATE AND TO BRIEFING SCHEDULE;  
ORDER**

IT IS HEREBY STIPULATED by and between the Plaintiff C.S.T., by and through J.T., his  
Guardian Ad Litem ("Plaintiff"), through his attorney, Margaret M. Broussard, Esq., and Defendant  
Davis Joint Unified School District ("District"), through its attorneys, Lozano Smith by Sloan R.  
Simmons, Esq., as to the following:

1. The claims that Plaintiff maintains against the District in this case are based on the federal  
Individuals with Disabilities Education Act ("IDEA") and related state law for the review of two Special  
Education Hearing Office ("SEHO") decisions rendered on September 30, 2004 and June 2, 2005,  
respectively.

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2. Plaintiff's two related actions appealing SEHO's above-noted due process administrative hearing decisions, *C.S.T., a minor, by and through J.T., his Guardian Ad Litem v. Davis Joint Unified School District*, Case No. CIV-S-04-2748 MCE/GGH and *C.S.T., a minor, by and through J.T., his Guardian Ad Litem v. Davis Joint Unified School District*, Case No. CIV-S-05-1759 MCE/GGH, were consolidated pursuant to the Court's order of December 16, 2005.

3. Pursuant to the Court's January 20, 2006 Order granting the parties' request for a continuance of the trial date in the consolidated actions because of the unavailability of the necessary administrative records, currently, the last date for Plaintiff and the District to file their joint pretrial statement is June 5, 2006; the final pretrial conference is scheduled for June 19, 2006; and trial is set for August 2, 2006, at 9:00 a.m. To date, this is the only request for an extension of time made by the parties to the Court in this case.

4. In the parties' January 12, 2006 Stipulation to Continue Trial Date; Proposed Order, the parties indicated in paragraph 3 of the Stipulation that "[i]f all of the transcripts and the administrative records have not been provided prior to February 7, 2006, the parties intend to ask leave of court to continue the case further."

5. The California Office of Administrative Hearings ("OAH") did not provide the District the requested administrative records and transcripts from the above-referenced administrative due process hearings noted in paragraph 2, until April 26, 2006. As of the date of drafting this Stipulation, OAH has yet to provide Plaintiff with a full set of the requested transcripts and/or administrative records from the above-referenced administrative due process hearings noted in paragraph 2. This is the case despite continuing phone calls and/or other communications with OAH by both Plaintiff's and District's counsel.

6. Because OAH's continuing failure to promptly provide each of the parties with the transcripts and/or administrative records from the relevant administrative due process hearings, consistent with the parties' January 12, 2006 Stipulation, as referenced in paragraph 4, and pursuant to Local Rule 6-144 (E.D. Cal. 1997), the parties agree that the trial date in this case should be continued to October 12, 2006.

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1           7.       Because Plaintiff's claims in this case are for the review, under the IDEA, of SEHO's  
2       September 30, 2004 and June 2, 2005 due process decisions, which is based on the administrative  
3       records developed in the underlying due process hearings, and no live testimony is anticipated by either  
4       party, the parties stipulate to a briefing schedule where: 1) Plaintiff will file an Opening Brief sixty (60)  
5       days in advance of the trial date; 2) the District will file its Opposition to said Opening Brief thirty (30)  
6       days in advance of the trial date; and 3) Plaintiff will file his Reply to said Opposition by sixteen (16)  
7       days in advance of the trial date.

8           8.       The parties agree that the Court's scheduled deadline for filing a joint pretrial statement  
9       and the scheduled pretrial conference should be vacated.

10          9.       The parties agree that the continued trial date of October 12, 2006, should remain on  
11       calendar. However, the parties agree that the scheduled trial date should serve as a date to conduct oral  
12       arguments before the Court based on the submitted briefing and a submission of the underlying  
13       administrative records, unless a party successfully moves to supplement the underlying administrative  
14       records with additional evidence through a timely and appropriately noticed motion under Eastern  
15       District Local Rule 78-230.

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1        10.        The parties agree that, because of the unique nature of an appeal of a special education  
2 administrative due process hearing in federal court, such dispositive briefing based on the administrative  
3 records below, followed by oral argument, will not be akin to a motion brought under rule 56 of the  
4 Federal Rules of Civil Procedure in that a separate statement of undisputed facts and evidence is not  
5 required by Plaintiff nor in an opposition or response to such a statement required by the District.

6 Dated: June 5, 2006

Respectfully submitted,

LAW OFFICE OF MARGARET  
BROUSSARD

9 /s/ Margaret M. Broussard  
10 MARGARET M. BROUSSARD  
11 Attorneys for Plaintiff  
C.S.T.

12 Dated: June 5, 2006

Respectfully submitted,

LOZANO SMITH

14 /s/ Sloan R. Simmons  
15 SLOAN R. SIMMONS  
16 Attorneys for Defendant  
DAVIS JOINT UNIFIED SCHOOL  
DISTRICT

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**ORDER**

IT IS HEREBY ORDERED that, pursuant to Local Rule 6-144, the Joint Stipulation to Continue/Vacate Trial Date is GRANTED. The trial date of August 2, 2006 is vacated and a tentative date for a hearing (if required by the Court) is set for October 12, 2006 at 9:00 a.m.

IT IS FURTHER ORDERED that, the parties' Joint Stipulation to Briefing Schedule is GRANTED. The parties will submit to the following briefing schedule for the Plaintiff's claims:

1) Plaintiff C.S.T. will file the Opening Brief sixty (60) days in advance of the hearing date; 2) the Defendant District will file the Opposition to said Opening Brief thirty (30) days in advance of the hearing date; and 3) Plaintiff will file the Reply to said Opposition sixteen (16) days in advance of the hearing date. Any party seeking to supplement the underlying administrative records must make a timely and appropriately noticed motion under Eastern District Local Rule 78-230.

IT IS FURTHER ORDERED that the scheduled pretrial conference and pretrial conference statement dates and deadlines are HEREBY VACATED.

DATED: June 14, 2006



MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE